



Approved: Meeting No 10-14

Attest:

MAYOR AND COUNCIL
ROCKVILLE, MARYLAND
March 10, 2014
Meeting No. 08-14
07:00 p.m.

Executive Session Summary for February 24, 2014

Executive Session pursuant to the State Government Article of the Annotated Code of Maryland, Sections 10-508(a)(7) and 10-508(a)(8) to consult with legal counsel and staff regarding pending and potential litigation involving contract disputes related to the Senior Center and Gude Drive Maintenance Facility; and Section 10-508(a)(7) to obtain legal advice regarding the City's cable franchise agreement with Comcast.

The Mayor and Council met in Executive Session on Monday, February 24, 2014, at 5:33 p.m. in the Diamondback Terrapin Conference Room, City Hall, 111 Maryland Avenue, Rockville, Maryland.

Councilmember Moore made the motion to convene in Executive Session. The motion was seconded by Councilmember Feinberg with Mayor Newton and Councilmembers Feinberg, Moore and Palakovich Carr approving.

Note for the record: Councilmember Virginia Onley arrived at 5:34 pm and was not present for the vote.

Present: Mayor Bridget Donnell Newton, Councilmember Beryl L. Feinberg, Councilmember Tom Moore, Councilmember Virginia Onley and Councilmember Julie Palakovich Carr. Also present were City Manager Barbara Matthews, Deputy City Manager Jenny Kimball, City Attorney Debra Daniel, Senior City Attorney Cynthia Walters, Assistant City Attorney Payman Tehrani, City Clerk/Treasurer Doug Barber, Communications Manager Marylou Berg, Acting Station Manager for Rockville 11 Aaron Dawkins, Director of Public Works Craig Simoneau, Director of Community Planning and Development Services Susan Swift, and Acting Director of Recreation and Parks Chris Henry.

Sue Ellen Ferguson, Esquire, the attorney representing the City of Rockville and other municipalities in connection with the Comcast Franchise Agreement, was also present. Note for the Record: Communications Manager Marylou Berg, Acting Station Manager for Rockville 11 Aaron Dawkins, and Sue Ellen Ferguson, Esquire left the meeting at 6:05 p.m. Acting Director of Recreation and Parks Chris Henry arrived at the meeting at 6:05 p.m.

The topics of discussion were the City's cable franchise agreement with Comcast and the pending and potential litigation involving contract disputes related to the Senior Center and the Gude Drive Maintenance Facility.

The Mayor and Council adjourned the Executive Session at 6:50 p.m.

Mayor and Council Meeting – March 10, 2014

Present:

Mayor Bridget Donnell Newton, Councilmember Beryl Feinberg, Councilmember Moore, Councilmember Onley, and Councilmember Palakovich Carr

Staff Present:

City Manager Barbara Matthews, Deputy City Clerk Brenda Bean, and City Attorney Debra Daniel.

1. Convene

The Mayor and Council convened in a regular meeting at 7:00 p.m. on Monday, March 10, 2014 in the Mayor and Council Chambers, City Hall, 111 Maryland Avenue, Rockville, Maryland.

2. Pledge of Allegiance

Mayor Newton led the Pledge of Allegiance.

3. Agenda Review

Deputy City Clerk Brenda Bean reported that there were no changes to the agenda.

4. City Manager's Report

- City Manager Barbara Matthews introduced Tim Chesnutt, the new Director of Recreation and Parks. Ms. Matthews mentioned Mr. Chesnutt's background in Recreation and Parks and said she is pleased to welcome him to the City of Rockville.

Mr. Chesnutt addressed the Mayor and Council and said that he is happy to be back in Maryland and in particular, the City of Rockville. He said that the City of Rockville and Department of Recreation and Parks have set very high standards and he is pleased to work with the Mayor and Council and staff to maintain, and hopefully exceed those standards.

City Manager Matthews thanked Chris Henry for her outstanding leadership as Acting Director of Recreation and Parks.

- Ms. Matthews provided a summary of the Moody's and Standard & Poor's reports for the City's bond sale that took place on March 3rd, 2014. Ms. Matthews said that both agencies gave Rockville the highest AAA/Aaa rating for the bond sale, and reaffirmed the AAA/Aaa rating for all of the City's outstanding debt. Ms. Matthews said that the news was particularly rewarding as both agencies have recently tightened their rating methodologies in response to the recession and concerns over pension liabilities.
- Ms. Matthews mentioned that the Spring Recreation Guide was mailed to all Rockville residents and that registration for classes begins on March 13, 2014.
- Regarding the "If I Were Mayor Contest," Ms. Matthews said that it is not too late for 4th graders in Rockville to participate. Ms. Matthews described the details and rules for the

contest and said that the essays must be submitted to the Maryland Municipal League no later than March 31, 2014.

- Ms. Matthews mentioned the Volunteer Income Tax Assistance (VITA) program that is underway to help eligible residents with their income tax preparation. Ms. Matthews said that a "walk in" clinic is scheduled for Saturday, March 15 at the Twinbrook Community Center.

Mayor Newton congratulated Director of Finance Gavin Cohen on the excellent news regarding the bond sale.

5. Announcement of Boards and Commissions Vacancies

Mayor Newton announced vacant positions to the following Boards and Commissions: Cultural Arts Commission, Historic District Commission, Recreation and Parks Advisory Board, Recreation and Parks Foundation, Inc., Retirement Board, Senior Citizens Commission, Traffic and Transportation Commission, Human Services Advisory Commission, Human Rights Commission, Landlord Tenant Affairs Commission, Rockville Housing Enterprises, Rockville Sister City Corporation, Personnel Appeals Board, Rockville Economic Development, Inc. (REDI), and the Ethics Commission.

6. Presentation - Girl Scout Cookie Presentation

Scouts representing the four levels of Girl Scouts in Rockville (Service Unit #2) introduced themselves and Senior Scout Elizabeth Conway provided the Mayor and Council with a report on the activities of the Rockville Girl Scouts over the past year. The scouts then presented the Mayor and Council and staff with Girl Scout cookies.

7. Proclamation Declaring March 10-14, 2014 as Business Appreciation Week in Rockville

Mayor Newton read the proclamation and presented it to Laurie Boyer, Executive Director for REDI. Ms. Boyer introduced Boardmember Susan Prince and REDI staff Alicia McLeod and Stacey Fearheiley. She talked about the Business Appreciation Week kickoff and said that over 54 businesses would be visited during the week. Ms. Boyer said 54 companies would be visited for the purpose of getting to know them better and to thank them for doing business in Rockville. She said that REDI will host a Business Appreciation Week Wrap Up Breakfast at Glenview Mansion on Friday March 21st at 7:30 a.m.

Motion: to proclaim March 10-14, 2014 as Business Appreciation Week in Rockville

Moved by Councilmember Palakovich Carr, seconded by Councilmember Feinberg and unanimously approved.

8. Proclamation Declaring March 2014 as Women's History Month in Rockville

Councilmember Palakovich Carr read the proclamation and presented it to Mary van Balgooy, former Executive Director of Peerless Rockville and current Executive Director of the Society of Woman Geographers. Ms. van Balgooy spoke about women who have made an indelible contribution to Rockville's history and encouraged residents to pick up a free booklet released by Peerless Rockville entitled, "Women Who Dared: A Guide to the Places in Rockville Where

Women Dared to Challenge Expectations Both in Society and in Themselves." Ms. van Balgooy said the book highlights women who helped to shape Rockville's history.

Motion: to proclaim March 2014 as Women's History Month in Rockville

Moved by Councilmember Feinberg, seconded by Councilmember Onley and unanimously approved.

9. Community Forum (formerly known as Citizens' Forum)

Citizen

Issue

Max van Balgooy	Thanked the Mayor and Council for their efforts, involvement and attention on the issue of the Children's Resource Center (CRC). He also thanked Jim Wasilak, Bobby Ray and Louise Atkins for their assistance.
Henrietta Gomez	Is pleased that County Executive Ike Leggett solved the CRC problem. Mentioned that the Broome School is in a state of deterioration and that clothes are being strewn about due to the drop off for Interfaith Clothing.
Alison Moser	Twinbrook Forest resident. Disappointed in the lack of advocacy by the Mayor and Council for the Twinbrook neighborhood; pitting neighborhoods against one another.
Elaine Nicasio	Thanked the County for putting plans to construct the office building in Twinbrook on hold; there is no place for an office building in the middle of Twinbrook; safety issues should be a big factor as they were a concern in West Rockville.
Christina Ginsberg	President of the Twinbrook Citizens Association; entire process for the CRC was fraught with angst, mistrust and misinformation; frustrated with the process; the Mayor and Council work for the citizens, not staff; pleased that the Mayor and Council helped to pull the plug on this project at the last minute.
Teresa Defino	Regarding the MPDU item on the agenda. Before the Mayor & Council fund any RHE requests, they need to lower their rental rates; to have vacant units in government owned public housing is tragic.

10. Mayor and Council's Response to Community Forum and Announcements

Mayor Newton thanked the Community Forum speakers for coming out. She said members of the Mayor and Council have been advocating for years on behalf of Twinbrook residents on the issue of the Children's Resource Center. Tonight, many good points were raised on the process and she hopes to make some changes going forward.

11. Mayor and Council Reports

Councilmember Palakovich Carr had attended the Traffic and Transportation meeting and was encouraged to receive such a positive report on the Bikeshare Program. People were still riding bikes even with the harsh winter that we have experienced. She also mentioned that she, along with Mayor Newton and Councilmember Onley, had attended the Montgomery County Coalition for the Homeless Gala on March 6th. It was a lovely evening for a great cause.

Councilmember Feinberg noted that she had attended her first Retirement Board meeting on March 7th and said that her background helped her to understand the materials that were provided. Councilmember Feinberg said that she has plans to attend the Human Services Commission meeting on March 11th.

Mayor Newton said that she and Councilmember Onley had attended the MCPS Rally in Annapolis on March 6th for School Construction funding. She said that there were over 500 hundred people at the Rally and urged the viewing audience to continue the push for funding during the last several days of the General Assembly Session.

Councilmember Moore said that he too had attended the rally and addressed the group of parents that were in attendance. He said he tried to convey that if there are not adequate school facilities in the City, it will greatly affect the health and future of our downtown and other downtowns throughout the County.

12. Consent Agenda

A. Award of Invitation for Bid #06-14, Accessible Pedestrian Signals Project, to Fort Myer Construction Corporation in an Amount Not to Exceed \$340,007.11

B. Award of Contract for Five Police Vehicles to Hertrich Fleet Services, Inc. in the Amount of \$131,238

C. Approval of Contract Increase to Rider Contract #XX4505280 for Bridge Rehabilitation in an Amount Not to Exceed \$500,000 through June 30, 2014

D. Award of IFB #20-14, Furnish and Install Playground Equipment at Lincoln Park Community Center and Monument Park, to Playground Specialists, Inc. in the Amount of \$240,770.92

Councilmember Palakovich Carr requested that the approval of minutes (Consent Agenda Item E) be removed because she was not present at the January 27 meeting.

Motion: to approve the consent agenda with the exception of Item E – approval of minutes.

Moved by Councilmember Moore, seconded by Councilmember Feinberg and unanimously approved.

E. Approval of Minutes

Motion: to approve the minutes of February 3, 2014, Meeting No. 04-14.

Moved by Councilmember Moore, seconded by Councilmember Palakovich Carr and unanimously approved.

Motion: to approve the minutes of January 27, 2013, Meeting No. 03-14.

Moved by Councilmember Moore, seconded by Councilmember Onley with Mayor Newton, Councilmember Feinberg, Councilmember Moore, and Councilmember Onley approving and Councilmember Palakovich Carr abstaining.

Motion Passed: 4 approved - 0 opposed - 1 abstained

13. Discussion of Montgomery County's Children's Resource Center (CRC) Project

Mayor Newton mentioned that she had received a letter from County Executive Leggett indicating his decision to relocate the CRC in the existing Broome School, thereby deferring the construction of a permanent building to house the CRC. Referring to some earlier comments made at Community Forum, Councilmember Onley said that the Twinbrook neighborhood is just as important to the Mayor and Council as any other neighborhood in the City of Rockville. She said that the Mayor and Council represent all Rockville neighborhoods.

Assistant City Manager Jenny Kimball summarized the contents of Mr. Leggett's letter. As a result of this latest development, she said the application was withdrawn and the Planning Commission removed it from their agenda for March 12th.

Mayor Newton said that there needs to be more discussion as a governing body about our ability/opportunities to make changes on some things. We can do a better job of standing up for the citizens of Rockville.

Councilmember Moore is not sure what the issue is here. There maybe a few process flaws but this is not one of them.

There was discussion regarding members of the Mayor and Council who met with the County Executive on the CRC and that this should have been vetted through the entire body.

Councilmember Feinberg spoke about some of the values discussed at the retreat and for this type of meeting to take place was not in keeping with those values. It is important to inform each other, in advance, if we plan to meet with the elected officials and share the information as it occurs. Councilmember Feinberg said that three members of the governing body were not invited to participate.

Councilmember Palakovich Carr thanked the County Executive for his responsiveness regarding the CRC and said that it is a major win for the Twinbrook neighborhood. She also expressed her unease that a meeting took place between two members of the Mayor and Council with the County Executive on the Children's Resource Center before a discussion was held by the entire City Council.

Councilmember Onley clarified that Mayor Newton did send a note to the Council about having a conversation. She said that it stemmed from comments made by Mr. Leggett to Mayor Newton at a recent MML meeting. Councilmember Onley said that her colleagues may not think it was a good idea, but she did. She said she stands behind the decision to meet with the County Executive to fight for Twinbrook. The end result is a win-win for the Twinbrook neighborhood. She indicated that she and Mayor Newton met with Mr. Leggett as individuals and were not trying to represent the rest of the Council.

14. Adoption of an Ordinance to Amend Chapter 13.5 entitled "Moderately Priced Housing" by Amending Section 13.5-3 so as to Add Two New Definitions ("Special Needs Housing with Services" and "Significantly More MPDUs") and by Amending Section 13.5-5 to Provide that the MPDU Requirements of a Special Needs Housing with Services Project may be Approved by an Alternative Agreement; to Provide that the Procedures for Considering and Implementing Alternative Offers shall be Established by the Mayor and Council in the MPDU Regulations; and to Make Other Technical Amendments

Erin Wilson, Housing Planner, provided the background and history of this item. She said that the proposed ordinance will provide guidance on MPDU requirements for senior or special needs housing units with services when units are provided onsite. This includes capping the monthly fee for MPDU participants and allowing the developer to request a reduction in the percentage of units that are provided onsite; clarify the standards a developer must meet to request an alternative to onsite units and the criteria Mayor and Council use to evaluate the offer. This change applies to all residential developments of 50 units or more, not just to senior or special needs housing projects; and grants authority for policies and procedures to be defined in the MPDU regulations, including procedures for evaluating a request for an alternative agreement and a formula for fee-in-lieu of onsite MPDU.

Mayor Newton requested confirmation that Ingleside at King Farm had their own Agreement with the City and therefore they would not be affected by this ordinance.

In an effort to strengthen the language under the Mayor and Council Declaration of Public Policy, Councilmember Palakovich Carr suggested a sentence be added to require that all moderately priced dwelling units be provided on-site unless the Mayor and Council approve an alternative agreement in certain limited circumstances.

To clarify, Councilmember Moore said that the suggested language is not binding and asked the City Attorney for her opinion. City Attorney Daniel said that she had no concerns with Councilmember Palakovich Carr's amendment and in fact, it would be helpful if there ever is a challenge.

Councilmember Feinberg proposed that the Tier 1 Maximum Monthly Fee be set at 70%, or \$1,508, to be more affordable for people in the lowest tier with little discretionary income. The Mayor and Council agreed with Councilmember Feinberg's suggestion.

Councilmember Moore said that he supports this and it is the public policy of the Mayor and Council to place MPDU units on site. He thanked Councilmember Palakovich Carr for her efforts.

Motion: to add the following language to Sec. 13.5-2, Declaration of Public Policy:

"require that all moderately priced dwelling units be provided on-site unless the Mayor and Council approves an alternative agreement in certain limited circumstances as set forth in this Chapter."

Moved by Councilmember Palakovich Carr, seconded by Councilmember Feinberg and unanimously approved.

Motion: to adopt the ordinance to amend chapter 13.5 entitled "moderately priced housing" by amending section 13.5-3 so as to add two new definitions ("Special Needs

Housing with Services" and "Significantly More MPDUs") and by amending section 13.5-5 to provide that the MPDU requirements of a special needs housing with services project may be approved by an alternative agreement; to provide that the procedures for considering and implementing alternative offers shall be established by the Mayor and Council in the MPDU regulations; and to make other technical amendments.

Moved by Councilmember Moore, seconded by Councilmember Palakovich Carr and unanimously approved.

15. Approval of Changes to the Moderately Priced Dwelling Unit (MPDU) Regulations that Address Requirements for Non-Traditional Housing Units, Provide Procedures for Establishing Alternative Agreements, and Establish a Formula for a Fee-in-Lieu of Providing On-site MPDUs

Erin Wilson, Housing Planner, provided the background and said that this item is the counterpart to the previous agenda item. She said that the proposed changes to the regulations define procedures for evaluating a request for an alternative agreement to providing MPDUs onsite and establish a formula for a fee-in lieu of onsite units. The regulations also outline the method for calculating the maximum monthly fees that can be charged to MPDU residents of senior or special needs housing. Ms. Wilson noted that since the Mayor and Council discussed this on February 24, 2014, one change was made that would simplify how the monthly fee for an additional occupant of an MPDU is calculated.

Mayor Newton asked if the materials submitted in Attachment A were the same ones submitted at the February 24 meeting and Ms. Wilson confirmed that the materials were the same. Councilmember Feinberg reiterated her earlier request regarding Tier 1 to make it more affordable for those with the least income. This would take the maximum monthly fee from \$1,616 to \$1,508. Councilmember Moore invited Tim Dugan, Esquire, representing Brightview Village, to comment on this suggested change and Mr. Dugan replied that his client has no objections. There was agreement by the Mayor and Council to support Councilmember Feinberg's changes.

Motion: to approve the changes to the Moderately Priced Dwelling Unit (MPDU) Regulations that Address Requirements for Non-Traditional Housing Units, Provide Procedures for Establishing Alternative Agreements, and Establish a Formula for a Fee-in-Lieu of Providing On-site MPDUs.

Moved by Councilmember Feinberg, seconded by Councilmember Moore and unanimously approved.

16. Introduction of an Ordinance to Amend Chapter 24 of the Rockville City Code, entitled "Water, Sewers and Sewage Disposal," Article III, "Rates and Charges," so as to Generally Amend the Billing and Collection Procedures for Water and Sewer Usage, including Adding Provisions to Clarify that Delinquent Charges may be Collected in the Same Manner as Taxes; to Amend the Provisions for Adjustments to Water and Sewer Bills; and to Amend the Provisions Regarding the Testing of City Meters.

Director of Finance Gavin Cohen presented the staff report and said that the changes have to do with two "miscellaneous type" fees and not the core charges to residents for usage of water and sewer. Mr. Cohen suggested that it would be beneficial to have the discussion of those

charges after the Utility Rates Study takes place and there was agreement by the Mayor and Council to do this. That discussion would take place after the summer recess.

Director of Finance Cohen reported that the changes to the ordinance fall into three categories: 1) clarification of current practices, 2) adjustment of fees, and 3) improvement of the customer experience. He said the proposed changes would benefit Rockville's utility customers and the City government by: documenting and clarifying current practices to reduce customer confusion and support consistent application of rules and procedures; adjusting fees to be more in line with the market and to discourage wasteful services; increasing opportunities for fee waivers and authorizing credits to customers; granting authority to reconnect service prior to full payment of all fees due; and, granting authority for staff to offer payment plans for customers in fiscal distress.

Mr. Cohen described in detail the changes proposed in each of these categories which was followed by a general discussion between Mr. Cohen and the Mayor and Council.

Mayor Newton said that the increase to the water rates were not mentioned in the green sheets and suggested that, going forward, these amounts be added to the green sheets so that the reader does not have to look at the ordinance itself.

Councilmember Moore said that kind of detail should not be in the green sheets and he thanked staff for keeping the green sheets so tightly focused.

Regarding adding the refuse bill to the tax bill, Councilmember Feinberg believes that this would be a positive change as well as a cost savings.

Councilmember Moore said that adding the refuse bill to the property tax bill would increase mortgage payments somewhat because property tax bills are paid through mortgage payments.

Mayor Newton suggested a public hearing might be in order on some of the items associated with these changes.

Councilmember Feinberg thanked Mr. Cohen for answering all of her questions. She suggested inserting the phrase "or designee" when referring to the City Manager's decision.

Councilmember Palakovich Carr said she appreciates the efforts of staff to ensure that what we are doing is reflected in the ordinance. She had questions regarding the "written" vs "verbal" request regarding swimming pools. City Attorney Daniel said that if there is a dispute it would be better to have the information documented in writing.

At the conclusion of the discussion, there was consensus for staff to bring a clean document back to the Mayor and Council for introduction that reflects the changes discussed this evening. There was also a discussion to hold a public hearing on the topic of adding refuse bills onto the property tax statement.

17. Review and Comment Regarding Mayor and Council Action Report

In light of the recent developments concerning the Children's Resource Center, Mayor Newton wondered if the Planning Commission had taken this item off their agenda for the March 12th meeting. Director of Community Planning and Development Services Susan Swift responded that the CRC item was removed as a formal public hearing and the Planning Commission will

still discuss it with respect to next steps. Ms. Swift said that if members of the public do show up, they will be afforded the opportunity to speak.

Councilmember Moore asked that an update/status of the Rockville Pike Plan be placed on a future agenda.

Councilmember Palakovich Carr thanked staff for putting together the progress report on the COG Climate, Energy and Environment Committee Goals. She encouraged her colleagues to take a look at the document and said that it is great to see how much Rockville has done in terms of addressing climate change.

With respect to Mayor Newton's request to have a discussion on undersized lots, an ombudsman/citizen advocate, and a debriefing on the 2014 winter storm response at a future meeting, Councilmember Onley seconded these requests.

18. Review and Comment Regarding Future Agendas

Regarding the budget presentation item scheduled for March 17th, Mayor Newton does not believe the half hour allotted is enough time. Director of Finance Cohen responded said that generally this is an opportunity for the City Manager to present the budget and there usually is not back and forth discussion. In view of the fact that there are three new councilmembers and the shortened budget timeframe this year, Mayor Newton believes there may be some back and forth and does not think a half hour is sufficient.

Councilmember Moore sent an email over the weekend to his colleagues asking that two items be placed on the March 17th agenda for discussion. He reiterated his request for the Mayor and Council to discuss the City's position on the ethics legislation currently moving in Annapolis and a Charter Amendment that would add non discrimination practices in hiring. City Manager Barbara Matthews said that staff would do their best but it may present a challenge with such little notice. Because of time sensitivity, Councilmember Moore asked only for the ethics item to be added for March 17.

19. Old/New Business

No old or new business items were discussed.

20. Adjournment

There being no further business, the meeting was adjourned at 9:11 pm.

Motion: to adjourn.

Moved by Councilmember Moore, seconded by Councilmember Palakovich Carr and unanimously approved.